

**Letter of Findings: 01-20200452
Individual Income Tax
for the Tax Year 2019**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Finding.

HOLDING

Couple were not residents of Indiana in 2019, however the Department determined that the proposed assessment was due because the assessment was on income derived from Indiana sources.

ISSUE

I. Individual Income Tax - Residency.

Authority: IC § 6-3-2-1(a); IC § 6-3-2-2(a); IC § 6-3-1-12; IC § 6-3-1-3.5(a); IC § 6-8.1-5-1; *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the proposed assessment of adjusted income.

STATEMENT OF FACTS

Taxpayers are a couple ("Husband" and "Wife") who are out-of-state residents who previously worked and resided in Indiana. The Indiana Department of Revenue ("Department") issued a proposed assessment for 2019 income taxes due on Indiana income based on Taxpayers' Indiana tax return filed. Taxpayers protested proposed assessment. An administrative hearing was held and this Letter of Finding results. Additional facts will be provided as necessary.

I. Individual Income Tax - Residency.

DISCUSSION

Taxpayers moved from Indiana to another state in December 2018 and resided in that state for all of 2019. In January 2019, Husband received payment from his Indiana job in the form of a severance payment and vacation time pay out. Taxpayers protest that Indiana income tax was not due because Taxpayers were no longer Indiana residents.

As a threshold issue, it is the taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence that DOR's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; See e.g. *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012) and *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

Pursuant to IC § 6-3-1-12, a resident "includes (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state" In other words, a resident

includes individuals who are domiciled in Indiana or maintain a permanent place of residence in Indiana and then spend more than 183 days in Indiana.

Taxpayers argue that they were not domiciled in Indiana in 2019, and after review of the documentation submitted in the protest process, the Department agrees. Taxpayers were not Indiana domiciliaries during the 2019 tax year because they were not in Indiana for the 183 days required by IC § 6-3-1-12. Additionally, Taxpayers provided a lease agreement for a residence in the other state as well as additional documentation that showed they established domicile in the other state in 2019. The Department agrees that Taxpayers were not domiciled in Indiana in 2019. However, residency and domicile are not the only relevant matters at issue.

Indiana imposes a tax "upon the adjusted gross income of every resident person, and **on that part of the adjusted gross income derived from sources within Indiana** of every nonresident person." **(Emphasis added)**. IC § 6-3-2-1(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. To compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

Husband worked in Indiana in 2018 and accrued wages and benefits from an Indiana based company. Taxpayers moved to the other state at the end of 2018 and established a new residency and domicile. In 2019 Husband received the wages and benefits that were accrued in Indiana in 2018. Taxpayers have not met their burden under IC § 6-8.1-5-1(c) to prove the assessment incorrect. The income received from Husband's Indiana employment was derived from an Indiana source and was paid in the year 2019 as provided under IC § 6-3-2-2(a). Therefore, it is taxable as Indiana income.

FINDING

The Taxpayers' protest is denied.

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